

Notice of Allowability

Application No.

10/509,770

Examiner

Celia Chang

Applicant(s)

COHEN ET AL.

Art Unit

1625

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/20/08.
2. ☒ The allowed claim(s) is/are 1, 13-14, 55-61.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 4/4/08, 5/9/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

/Celia Chang/
Primary Examiner, Art Unit 1625

DETAILED ACTION

1. Amendment and response filed by applicants dated Feb. 20, 2008 together with a Declaration by Swanson, have been entered and considered carefully.

Claims 2-12, 15-2646-54 have been canceled.

Claims 1, 55-61 are pending. Claims 13-14, 27-45 stayed withdrawn from consideration.

2. ***Examiner's Amendment***

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ivori R. Elrifi on May 7, 2008.

Claims 27-45 which are drawn to non-elected claims are canceled.

Claims 13, line 1, delete the term "or prevention"

Line 2, after the term mammal, insert --in need thereof--;

Claim 55, line 1, after the term "comprising" insert --an effective amount of--;

Claim 59, line 1, after the term "comprising" insert --an effective amount of--;

Claim 60, line 1, after the term "comprising" insert --an effective amount of--;

Claim 61, line 1, after the term "comprising" insert --an effective amount of--.

3. ***Reason for Allowance***

The following is an examiner's statement of reasons for allowance:

Applicants submitted a Declaration under 37 CFR 1.132(b) showing that when the prior art compound having phenyl rings is replaced by a pyridinyl ring, unexpected pharmacokinetics in C_{max} and liver metabolic rate showing superior results in rapid pharmacological activity after oral exposure. Such pharmacological result is unpredictable with isosteric modification. Applicants have further limited the scope of the claims commensurate with the unexpectancy of the testing compounds. By amending claim 13 to be free of 112 issues and commensurate with the compound scope, claims 13-14 are rejoined with the compounds and the restriction between the method claims the compound claims are withdrawn. Claims 1, 13-14, 55-61 are allowed.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang, Ph. D. whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres, Ph. D., can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OACS/Chang
May 19, 2008

/Celia Chang/
Primary Examiner
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